

December 17, 2015

Subject: **Staff Report: 2015-16 Sustainable Agricultural Lands Conservation Program Final Draft Guidelines**

Quarter: 4th Quarter 2015

Reporting Period: October 2015 - December 2015

Staff Lead: Sustainable Agricultural Lands Conservation Program Staff

Recommended Action:

Approve the 2015-16 Sustainable Agricultural Lands Conservation Program (SALC Program) Final Guidelines (Attachment 1). With Council approval, staff will proceed with the solicitation of projects eligible under these Guidelines via a competitive process, awarding up to \$40 million in Fiscal Year 2015-16 funding.

Summary:

This report summarizes the status of the SALC Program, specifically regarding the preparation of the 2015-16 SALC Program Final Guidelines. This report provides an overview of the public outreach and public comment received about the previous draft, and presents an outline of next steps related to the roll out of the program.

Background:

SB 862, Statutes of 2014 established the Affordable Housing and Sustainable Communities (AHSC) program, to be administered by the Strategic Growth Council (SGC, or Council), "to reduce greenhouse gas emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development...."

The Staff Report for Agenda Item #7, 2015-2016 Affordable Housing and Sustainable Communities Program Public Review Draft Guidelines, provides further background on the primary goals and statutory requirements of the SGC AHSC Program as a whole and its funding source from the Greenhouse Gas Reduction Fund. In the Program's initial year (fiscal year 2014-15), the Budget Act of 2014 appropriated \$130 million from the GGRF to develop and implement the AHSC program for its first funding cycle. Going forward, SB 862 apportioned 20 percent of GGRF annual proceeds to the AHSC program beginning in 2015-16.

In July 2014, the Council approved the Department of Housing and Community Development to implement the housing, transportation, and infrastructure components of the AHSC Program, and the Department of Conservation, and the California Natural Resources Agency, to implement the agricultural lands protection component, which

was named the Sustainable Agricultural Lands Conservation Program, or SALC Program.

In its first year, the SALC Program was allocated \$5 million to protect high quality croplands and rangelands from conversion to more GHG-intensive urban and rural residential development, resulting in 12 awarded projects.

Purpose of the SALC Program

The SALC program facilitates the reduction of greenhouse gas (GHG) emissions by protecting critical croplands and rangelands at-risk of conversion to sprawl development, thereby avoiding increases in GHG emissions that would occur from urban and rural residential development. The program primarily accomplishes this by investing in agricultural land conservation easements, which extinguish associated development rights and protect lands for agricultural use in perpetuity. The SALC Program also invests in locally-led efforts by cities and counties to assess and strategically identify critical agricultural lands within their regions in order to implement broader, more encompassing policies and programs that result in the long-term protection of agricultural lands, tie in with other local land-use planning efforts, and reduce GHGs.

Development of the 2015-2016 SALC Program Final Guidelines

Following completion of the initial year of the SALC Program, the staff prepared and released draft 2015-16 SALC Guidelines for public review. These Guidelines incorporated suggestions received from various stakeholders, including comments made in early-August at a public “lessons learned” workshop. The revised draft Guidelines were prepared with input and consultation from multiple agencies, including California Natural Resources Agency, California Department of Food and Agriculture, California Air Resources Board, Cal-EPA, and the SGC staff, and were presented as an information-item to the Council on October 15, 2015. Staff held three public workshops in Tulare, Santa Rosa, and Camarillo to solicit comments on the proposed Guidelines in early November, and have received additional written comments to inform final revisions to the 2015-16 SALC Program Final Guidelines presented for Council approval.

Key issues addressed in the 2015-16 SALC Final Program Guidelines:

1. Continues to support investments for two project types that protect agricultural lands under threat of conversion:

- (1) grants to cities and counties to develop local and regional land use policies and strategies that protect critical agricultural land [Sustainable Agricultural Land Strategy & Outcome Grants]; and
- (2) agricultural conservation easements to protect lands in perpetuity for agricultural use.

The program proposes to allocate up to \$40 million, with \$2.5 million allocated for Strategy & Outcome grants, and \$37.5 million allocated for agricultural conservation easements. Funds not awarded under any one investment type, may be used to increase availability of funding of the other type.

2. Strengthens requirements for demonstrating a project's risk of conversion:

In order to meet the SALC Program's purpose to reduce GHG emissions, new threshold criteria has been added to the Guidelines that require applicants to demonstrate that agricultural lands within the project geographic boundary are at risk of conversion. The Guidelines present nine valid options to demonstrate risk of conversion, which reflect the likelihood of residential, rural residential, or minimum agricultural conversion. The appropriate zoning will be used to calculate the number of extinguished development rights. The nine options to demonstrate risk of conversion are listed on page 2 of the Guidelines, and also inform how the GHG reductions are calculated using the CalEEMod tool.

In determining the nine options for demonstrating risk of conversion, the Program needed to balance how to establish clear parameters on how the applicant could fulfill the requirement, while also acknowledging the wide-ranging geographic diversity of California (i.e., proximity of a conversion threat looks different in San Joaquin County than in Sonoma County) and also the different types of development threats (suburban, rural ranchettes, etc.) Currently, the type of development used for calculating GHG reductions is limited to residential. The SALC Program has received comments requesting that commercial and industrial zoning also be considered a development threats to agricultural land conversion. These uses are valid among the nine threat categories; however, quantification will be based on residential zoning densities. The ARB and the SALC Program will work towards calculating non-residential zoning in future years.

3. Revisions to the GHG quantification methodology now account for higher density residential zoning.

The GHG methodology used in 2014-15 calculated the avoided increases in vehicle miles traveled that would be associated with the development potential of the property at current (agricultural) zoning. Using the CalEEMod model to calculate the avoided emissions, the methodology assumed one development right is equivalent to a single family dwelling unit when estimating the avoided VMT and GHG emissions from a proposed project.

Public comments noted that the methodology did not take into consideration patterns of rezoning, i.e. increases in density development when land is converted to urban uses from agricultural land uses. The 2015-16 quantification methodology has been updated to include a method for determining the number of development rights to be extinguished inclusive of instructions for determining when and how to account for higher density residential zoning. See Attachment 2, Greenhouse Gas Quantification

Methodology for the Strategic Growth Council Sustainable Agricultural Lands Conservation Program, Fiscal Year 2015-16.”

Additional comments were received requesting that the quantification methodology also account for emissions attributed to building energy use, the sequestration potential of protected lands, and the emission benefits from preventing the conversion of rangelands to intensive agricultural. These suggestions will not be incorporated into the methodology in 2015-2016. Staff will continue to work with the ARB on further refinement of GHG quantification methodology as the program continues to evolve in future years.

4. Strategy and Outcomes Grants are concretely tied to outcomes that result in measurable GHG reductions, and a “joint application” approach has been added for some strategy grant types in order to provide an alternative option to applicants other than having to cover strategy work costs, without routine reimbursement from the State, until the strategy results in a measurable GHG reduction benefit

There was considerable interest expressed by stakeholders in keeping Strategy grants a part of the program in 2015-16 because of their ability to protect agricultural lands in ways that are more cost efficient, regionally-focused and support locally-led land-use planning decisions. However, funding the Strategy grants in fiscal year 2014-15 presented a challenge because of the uncertainty that planning efforts undertaken by a city or county would result in implementation, and that the implementation would result in quantifiable GHG reductions.

In order to directly tie the strategy to its measurable outcome, the draft 2015-16 SALC Guidelines included an administrative requirement that would require applicants to cover all up-front costs to preparing the strategy, without reimbursement by the State, until a measurable outcome is achieved. Stakeholders and some Councilmembers expressed concern that the administrative requirement would be too difficult for some applicants to meet, especially for those cities and counties that may not have the resources to shoulder the costs without periodic reimbursement. To address this valid concern, Staff has revised the Guidelines to include an alternative option for some of the strategy types that would allow a strategy applicant to partner with an agricultural conservation easement application. The alternative options are explained as follows.

The guidelines propose five Strategy and Outcome types eligible for funding, which protect agricultural lands under threat of conversion using various mechanisms. They are categorized as follows, noting the point at which the project demonstrates a measurable success as required by the SALC Program

Strategies with outcomes that result in the establishment of new agricultural conservations easements --

Type 1. Establishment of an Agricultural Land Mitigation Program

Type 2. Establishment of an Agricultural Easement Purchasing Program

To demonstrate success, applicants for Strategy types 1 and 2 may choose to either submit a joint application with an agricultural conservation easement applicant, where both applications are successful and the easement exists within the jurisdiction, OR submit a standalone application and cover all costs of Strategy development work until a resulting agricultural conservation easement has occurred.

By partnering with a successful agricultural conservation easement project, the SALC Program will be able to reimburse routinely the associated project costs per the scope of the awarded Strategy and Outcome grant through the agreement term.

Strategies with outcomes that result in the passage of zoning ordinances that effectively limit growth on targeted agricultural areas:

Type 3. Adoption of an Urban Limit Line or Urban Growth Boundary

Type 4. Increased Zoning Minimum for Designated Strategic Agricultural Areas

To demonstrate success, applicants for Strategy types 3 and 4 must be able to cover the costs necessary to complete work related to the development and execution of the Strategy, without reimbursement from the State, until the ordinance has been officially adopted through the appropriate governing mechanism.

Strategy with outcomes that result in both an ordinance and new agricultural conservation easements –

Type 5. Adoption of an Agricultural Greenbelt and Implementation Agreement

To demonstrate success, applicants for Strategy type 5 may choose to either submit a joint application with an agricultural conservation easement applicant, where both applications are successful and the easement exists within the boundary of the proposed Greenbelt, OR submit a standalone application and cover all costs of Strategy development work until a General Plan update or a legally-binding agreement has been executed.

The SALC Program staff recognizes that by narrowing the list of eligible strategy types and requiring up-front demonstration of implementation prior to reimbursement of project costs, it may discourage cities and counties from applying. However, given the importance of incentivizing local government to assess and protect their agricultural land resources and the direct connection strategies have with the agricultural conservation easements we are funding through the SALC Program, staff felt it

necessary to at least present the option as to how these types of activities might be funded.

5. Match contribution requirement for the Agricultural Land Conservation Easement (ACE) grants is reduced.

For 2015-16, the proposed SALC Program contribution may be up to 90 percent of the fair market value of an ACE located within a disadvantaged community, and may be up to 75 percent of the fair market value of an ACE not located within a disadvantaged community. This addresses comments received that the 50 percent match requirement in the first year was too high of a bar for land trusts and other governmental or nonprofit agencies, especially in urban fringe areas where land is expensive.

A compilation summary of the comments received is provided as Attachment X to this report. We appreciate the support for the SALC Program, and carefully considered both the written comments submitted and those shared at the three public workshops. Although many of the stakeholder comments have been addressed in the revisions to date, some comments that we considered but did not incorporate into the 2015-16 guidelines, include:

Expand eligible project types to open space and allow for fee title acquisitions – Although SB 862 might be interpreted to allow for fee title acquisitions, the primary focus of the program is for agricultural protection and preservation, where open space and habitat values may be a co-benefit. The Program has focused its investments to local and regional land use strategies and agricultural and agricultural conservation easements, which are considered cost-effective tools for extinguishing development rights and keeping lands in agricultural use.

Eliminate requirement to submit an appraisal for agricultural conservation easements that are located in or benefiting a disadvantaged community (DAC) – The SALC Program will fund qualified disadvantaged community projects up to 90 percent of total project cost, as compared with 75 percent of non-DAC projects. By requiring a qualified appraisal before a commitment of such a large share of State funds limits risk. Furthermore, the cost of the appraisal is a reimbursable cost to applicant if the project is successful.

Next Steps for 2015-16 SALC Program

Upon Council approval of the final guidelines, staff will release a request for grant applications. The following provides the anticipated application deadlines and administrative timelines for this second round of funding:

Solicitation for Projects Released, following approval of SALC Final Guidelines by SGC Council	December 2015
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Pre-Proposal Summaries Due for Strategy & Outcome grants, and Agricultural Conservation Easement grants. Note this is a courtesy review, and not required in order to submit a full application.	February 25, 2016
Complete Applications Due for SALC Agricultural Conservation Easement Grants	April 13, 2016
Complete Applications Due for SALC Strategy and Outcome Grants	April 13, 2016
Technical Committees review applications and prepare proposed recommendations for award	April – June/July 2016
Recommend Projects for Award to SGC Council	July/August 2016

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Staff Report Attachments

- Attachment 1: 2015-16 SALC Program Final Guidelines for Council Approval
- Attachment 2: Greenhouse Gas Quantification Methodology for the SGC Sustainable Agricultural Lands Conservation Program GGRF Fiscal Year 2015-16
- Attachment 3: SALC Comments Compilation